IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 1275 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LALITKUMAR SUNDARLAL JAIN

Versus

MAHENDRASINH JASHUBHA PARMAR

Appearance:

1. Misc.Civil Application No. 1275 of 2004

MR NACHIKETA S JOSHI for Petitioner No. 1

MR SUDHAKAR B JOSHI for Petitioner No. 1

MS MITA PANCHAL AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 05/05/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

This is an application under the Contempt of Courts Act, 1971 for initiating action against the respondent-Deputy Conservator of Forest on the ground that when the present application was filed on 1.8.2004 the order dated 17.4.2004 passed by the learned Sessions Judge, Panchmahals at Godhra releasing the petitioner's jeep on payment of fine of Rs.10,000/-, which order was also confirmed by this Court by order dated 9.7.2004 in Special Criminal Application No.493 of 2004, was not complied with. After hearing the learned AGP, this Court had issued rule on 3.9.2004. The matter has reached for final hearing before us.

2. At the hearing of this application, Ms Mita Panchal, learned AGP states that after the learned Single Judge dismissed the Special Criminal Application challenging the order of the learned Sessions Judge, the Government was contemplating to file Special Leave Petition and Special Leave to Appeal (Criminal) No.5356 of 2004 was filed before the Hon'ble Supreme Court and it was only on 22.11.2004 that the SLP came to be dismissed and soon thereafter on 13.12.2004, the respondent has complied with the order of the learned Sessions Judge.

The learned AGP seeks leave to place on record a copy of the aforesaid order dated 22.11.2004 of the Hon'ble Supreme Court.
Leave as prayed for is granted.

3. Mr Nachiketa Joshi, learned counsel for the petitioner agrees that the petitioner's jeep has been released on 13.12.2004.

4. In view of the fact that the respondent was bonafide challenging the order of the learned Sessions Judge before this Court and thereafter before the Hon'ble Supreme Court, we do not find that the respondent had committed any wilful disobedience of the order of the learned Sessions Judge. Accordingly, the respondent cannot be said to have committed contempt of the Court.

5. The application is accordingly dismissed. Rule is discharged with no order as to costs.

(M.S. SHAH, J.)

(D.H. WAGHELA, J.)
zgs/-